

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANNIE RUDELL,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

NO.

COMPLAINT

Comes now the Plaintiff Annie Ruddell and alleges and pleads as follows:

I. JURISDICTION

1.1 Plaintiff is an enrolled member of the Squaxin Island Indian Tribe.

1.2 The acts giving rise to this Complaint occurred primarily on Squaxin Island Tribal lands.

1.3 A Self Governance Compact between the Squaxin Island Indian Tribe and the United States of America has been entered and was in effect at all times pertinent herein. The Compact is with the Secretary of the United State Department of the Interior. The Compact provides, inter alia, that:

[T]he Tribe shall be fully covered by all liability coverage under the Federal Tort Claims Act that is made available to the Secretary or an authorized representative or to P.L. 93-638 contractors and their employees under federal law, as the same may be amended from time to time, and shall be responsible in the same manner as P.L. 93-638 contractors.

1.4 The Multi-Year Funding Agreement between the Squaxin Island Indian Tribe and the United States Department of Interior for the years pertinent to this Claim include Law Enforcement, Indian Child Welfare and other tribal programs.

1.5 The current Self Governance Compact between the Squaxin Island Indian Tribe and the United State of America purports to be by the Secretary of the Department of Health and Human Services as signed by the Director of the Indian Health Service.

1.6 The Funding Agreement for 2008 provides that the Tribe is deemed to be part of the Public Health Service.

1.7 This court has jurisdiction to hear this matter and this matter is properly before the Court.

II. PARTIES

2.1 Plaintiff Annie Ruddell was at all times pertinent to this cause of action a resident of a home on Squaxin Island Tribal lands.

2.2 The Squaxin Island Indian Tribe is a sovereign nation and governmental entity pursuant to its own laws and the laws of the United States of America.

2.3 The Squaxin Island Tribal police department (hereinafter "Tribal Police") is an authorized agency of the Squaxin Island Indian Tribe created and existing for the benefit and for the protection of the Tribe and its members. All actions of the Squaxin Island Tribal police are actions taken on behalf of the Squaxin Island Indian Tribe.

2.4 The Indian Child Welfare (hereinafter “ICW”) is an agency of the Squaxin Island Indian Tribe created and existing for the benefit of the Tribe and its members. All actions of the ICW are actions taken on behalf of the Squaxin Island Indian Tribe.

2.5 The All Family Wellness Team (hereafter “AFWT”) is an agency of the Squaxin Island Indian Tribe created and existing for the benefit of the Tribe and its members. All actions of the AFWT are actions taken on behalf of the Squaxin Island Indian Tribe.

2.6 Russell Harper was an agent of the Squaxin Island Indian Tribe at all times material herein. All action of Russell Harper were actions taken on behalf of the Squaxin Island Indian Tribe.

2.7 The United States of America is a governmental entity. The United States of America is responsible by law and by contract for the tortious conduct of the Squaxin Island Indian Tribe and its employees and agents.

III. SERVICE OF CLAIM FOR DAMAGE, INJURY OR DEATH

3.1 Plaintiff properly served a Claim for Damage, Injury or Death Form 95 on the Squaxin Island Indian Tribe on February 9, 2009.

3.2 Plaintiff properly served a Claim for Damage, Injury or Death Form 95 on the Office of Public Health, Department of Health & Human Services on February 23, 2009.

3.3 Plaintiff properly served a Claim for Damage, Injury or Death Form 95 on the U.S. Department of Justice on February 2, 2009.

3.4 Plaintiff properly served a Claim for Damage, Injury or Death Form 95 on the U.S. Department of Interior on February 11, 2009.

1 5.4 Based on information and belief, Tyler Burrow regularly used alcohol, marijuana,
2 and prescription medications such as OxyContin, Vicodin, and other anti-depressants.

3 5.5 In 2008, Tyler Burrow was charged with possession of marijuana in Mason
4 County Juvenile Court. He entered into a diversion agreement that required that he:

- 5 a) Work 20 hours of community service;
6 b) Write an essay and an apology letter; and
7 c) Attain a drug assessment from a drug/alcohol professional at the Squaxin
8 Island Chemical Dependency Center, and follow through with the
 assessment recommendations.

9 5.6 As a result of his continued violations of the law, Tyler Burrow was placed in a
10 Juvenile Rehabilitation Facility with the Lummi Indian Tribe. Thereafter, he was brought back
11 to the Squaxin Island Indian Tribe based on the recommendations of the Squaxin Island Tribal
12 Council.

13 5.7 Upon Tyler Burrow's return from the Lummi Indian Tribe Juvenile Rehabilitation
14 Program, and based upon his continuous criminal activities, he was placed under the care and
15 supervision of the ICW, with input from the AFWT. The ICW thereafter placed Tyler Burrow
16 in Russell Harper's home despite the fact that Russell Harper was neither qualified nor an
17 appropriate person to serve as a guardian, to monitor or to supervise Tyler Burrow.

18 5.8 The ICW, with the input of the AFWT, had the responsibility to supervise and
19 monitor Tyler Burrow in the following regard:

- 20 a) Monitor Tyler Burrow's school attendance;
21 b) Monitor Tyler Burrow's use of alcohol or illegal drugs;
22 c) Monitor Tyler Burrow's curfew requirements;
23 d) Provide drug and alcohol assessments of Tyler Burrow;

1 e) Monitor Tyler Burrow's participation in any illegal activities; and

2 f) Monitor Tyler Burrow's sexual deviance.

3 5.9 Russell Harper did not properly monitor or supervise the actions and activities of
4 Tyler Burrow. As a result, Tyler Burrow failed to attend school; was using alcohol and illegal
5 drugs; was staying out after curfew; and was involved in illegal activities. The Squaxin Island
6 Indian Tribe knew, or should have known, of Tyler Burrow's failures and illegal activities.

7 5.10 The ICW and the FWT did not properly monitor or supervise the actions and
8 activities of Tyler Burrow. As a result, Tyler Burrow failed to attend school; was using alcohol
9 and illegal drugs; was staying out after curfew; and was involved in illegal activities. The
10 Squaxin Island Indian Tribe knew, or should have known, of Tyler Burrow's failures and illegal
11 activities.

12 5.11 On June 23, 2008, at approximately 3:00 a.m., Tyler Burrow came to the home of
13 Plaintiff Annie Ruddell with the intent to rape her. He entered her home through a window to
14 her computer room.

15 Plaintiff Annie Ruddell, and her three children: Lillian, age 6; Oscar, age 4; and Nadine,
16 age 3, were at home asleep.

17 Plaintiff Annie Ruddell was awakened by Tyler Burrow who was wearing a dark colored
18 hooded sweatshirt and holding a large white-handled knife. Annie screamed, "Get the hell out of
19 my house." Tyler Burrow said, "Be quiet or I'll hurt you." Annie was afraid for her life and for
20 the lives of her three children, who were in the adjacent bedroom. The actions and words of
21 Tyler Burrow were terrorizing to Annie.

22 Plaintiff Annie Ruddell pleaded for Tyler Burrow to put down the knife and leave her
23 home. Tyler Burrow ordered her to remove her shirt. Annie continued to plead for Tyler
24

1 Burrow to put down the knife and leave her home. Tyler Burrow told Annie that if she did what
2 he said, he would not hurt her or her children. Tyler Burrow said that if she took off her pants
3 and did what he said, he would put down the knife. Annie obeyed Tyler Burrow's demands out
4 of fear for her life, as well as the lives of her children.

5 Tyler Burrow vaginally and anally raped Annie. Annie begged Tyler Burrow to stop.
6 Tyler Burrow ejaculated inside of Annie. Tyler Burrow did not use a condom.

7 Tyler Burrow next ordered Annie Ruddell to stay in her bedroom. He then left the
8 bedroom and closed the bedroom door. He left the home by the front door.

9 5.12 On June 23, 2008, in the Mason County Superior Court, Tyler Burrow was
10 charged as an adult with Rape in the First Degree, Kidnapping in the First Degree with Sexual
11 Motivation, and Burglary in the First Degree. Facing the overwhelming evidence against him,
12 Tyler Burrow pled guilty, thereby waiving his right to a trial, to the Rape and Burglary charges
13 on August 18, 2008. The Kidnapping charge was dismissed. Tyler Burrow was sentenced to
14 serve 136 months (11 plus years) in prison by a Mason County Superior Court Judge on October
15 6, 2008.

16 VI. LIABILITY

17 6.1 The Squaxin Island Indian Tribe, by and through its agents, officials, and
18 employees, committed tortious acts; in its failure to properly investigate the placement of Tyler
19 Burrows; in the placement of Tyler Burrows; in its failure to properly supervise Tyler Burrows;
20 and in its failure in the monitoring of Tyler Burrows while he was under the care, custody,
21 responsibility and control of the Tribe.

A. General damages, including but not limited to:

1. Past and future physical injuries, including pain and suffering;
2. Past and future mental and emotional injuries, including Post-Traumatic Stress Disorder;
3. Past and future disabilities; and
4. Past and future loss of enjoyment of life.

B. Special damages, including but not limited to:

1. Past and future medical, rehabilitation and related expenses; and
2. Past and future loss of earnings and impairment of earning capacity.

C. Punitive and other damages as authorized by law.

D. Costs and attorney fees as authorized by law.

VIII. RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against Defendant for general, special, and punitive damages as allowed by law, for attorney's fees and costs incurred in maintaining this action, for prejudgment interest and for such other, and further relief as the Court deems just.

DATED this 4th day of September, 2009.

/s/ Paul L. Stritmatter

Paul L. Stritmatter, WSBA #4532

pauls@stritmatter.com

Kevin Coluccio, WSBA #16245

kc@stritmatter.com

413 8th Street

Hoquiam, WA 98550

(360) 533-2710

Of Stritmatter Kessler Whelan Coluccio

Counsel for Plaintiff